

FILED
OCT 30 2009
[Signature]
CLERK

UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH DAKOTA
SOUTHERN DIVISION

Timothy Doop, 31589,

Plaintiff,

CIV 09-4158

vs.
Douglas L. Weber, Warden,
South Dakota Department of
Corrections,
Defendant.

COMPLAINT

I. PREVIOUS LAWSUITS

- A. Have you begun other lawsuits in state or federal court dealing with the same facts involved in this action or otherwise relating to your imprisonment?

Yes () No ()

- B. If your answer to "A" is yes, describe the lawsuit in the space below. (If there is more than one lawsuit, describe the additional lawsuits on another piece of paper, using the same outline).

1. Parties to this previous lawsuit:

Plaintiffs NONE

Defendants NONE

2. Court (if federal court, name the district; if state court, name the county)

NONE

3. Docket number NONE

4. Name of Judge to whom case was assigned NONE

5. Disposition (for example: Was the case dismissed? Was it appealed? Is it still pending?) NONE

6. Approximate date of filing lawsuit NONE

7. Approximate date of disposition NONE
(1)

II. PLACE OF PRESENT CONFINEMENT SOUTH DAKOTA STATE PRISON

SIOUX FALLS, S.D. 57117

- A. Is there a prisoner grievance procedure in this institution? Yes () No ()
- B. Did you present the facts relating to your complaint in the prisoner grievance procedure? Yes () No ()
- C. If your answer is yes,
1. What steps did you take? Filed Informal Resolution; then filed Request for Administrative Remedy.
 2. What was the result? DENIED.
- D. If your answer is no, explain why not _____

- E. If there is no prison grievance procedure in the in the institution, did you complain to prison authorities? Yes () No ()

- F. If you answer is yes,

1. What steps did you take? I begged the officials to keep me safe from these inmates that had attacked me.

2. What was the result? They said that they had sent the 7 inmates to Jamison Anix Prison, and put a restraining order against them.

III. PARTIES

In item A below, place your name in the first blank and place your present address in the second blank. Do the same for additional plaintiffs, if any.

- A. Name of Plaintiff Timothy Doop, DOC.#31589
Address P.O. Box 5911, Sioux Falls, S.D. 57117-5911

In item B below, place the full name of the defendant in the first blank, his official position in the second blank, and his place of employment in the third blank. Use item C for the names, positions, and places of employment of any additional defendants.

- B. Name of Defendant Douglas L. Weber who is employed as
Warden at South Dakota State Prison
(2)

III. Parties (And Capacities: OFFICIAL(#), INDIVIDUAL(#),
OR PERSONAL (#))*

C. Additional Defendants (continued)

Defendant No. 1 ++++++ Douglas L. Weber, Warden:
S.D.S.P.
P.O.Box 5911
-Sioux Falls S.D. 57117

Defendant No. 2 Jenny Wagner Natives Affairs
1600 N. Drive S.D.S.P.
Sioux Falls, S.D. P.O.Box 5911
57104 Sioux Falls, S.D. 57117

Defendant No. 3 Troy Ponto Secretary Corrections
1600 N. Drive S.D.S.P.
Sioux Falls, S.D. P.O. Box 5911
57104 Sioux Falls, S.D. 57117

Defendant No. 4 C.O. Terry Reisner
1600 N. Drive
Sioux Falls, S.D.
57104

Defendant No. 6 South Dakota Department Of Corrections
1600 North Drive
Sioux Falls, S.D.
57104

Please attach additional sheets if necessary.

C. Additional Defendants South Dakota Department of Corrections,

IV. STATE OF CLAIM

State here as briefly as possible the facts of your case. Describe how each defendant is involved. Include also the names of other persons involved, dates, and places. Do not give any legal arguments or cite any cases or statutes. If you intend to allege a number of related claims, number and set forth each claim in a separate paragraph. Use as much space as you need. Attach extra sheet(s) if necessary.

Continue From #IV. State of Claim: Page 3. Subpage 1, 2, & 3.

V. RELIEF

State briefly exactly what you want the court to do for you. Make no legal arguments. Cite no cases or statutes.

Continue From #V. Relief: Page 3. Subpage 1.

I declare (or certify, verify or state) under penalty of perjury that the foregoing is true and correct.

Signed and executed this 28 day of October, 182009 (Initials and signature if:

Timothy Doop #31589
Signature of Plaintiff

(9/96)

(3)

"UNITED STATES DISTRICT COURT"
DISTRICT OF SOUTH DAKOTA
SOUTHERN DIVISION

"42 U.S.C. § 1983 COMPLAINT"

#1. Answered first page: Page 1.

#11. F. Yes I told the officials, the authorities. Page 2.

1. I told the officials about the threat that I was under, the fear of my being attacked, and the word that was going around that I was going to be jumped.

I am a big person, I didn't want to look meek, or beaten, or afraid, so I was just trying to watch out for myself.

The officials said that they couldn't move me to the bottom tier, without the Warden's permission.

So they went to the Warden Weber, to ask his permission to move me to the bottom tier, which is the Flag tier.

The Warden Weber's answer was NO, he can not move.

#2. They did nothing, and just stood back and did nothing to help me, or do anything at all.

#111. Parties: Page 2.

B. Defendants: South Dakota Department of Corrections; Douglas L. Weber, Warden;

Sectary Troy Ponto; Jenny Wagner, Native affairs;

C.O. Riegsaef,

"42 U.S.C. § 1983 Complaint"

#V. Relief: Page3. Subpage 1.

I want to feel safe and be safe from attacks like what had happened to me.

I wish to do my life centence with as much security, and humanity as possible here. Thats all!

I beleave that there should be some kind of monitory value astablished here as well.

Like the inmates that did jump me;
There should be a \$ dollor figure put on this.

Like the guards that said to me, and the Warden, that said that there was nuthing that they could do to help me.

There should be a \$ dollor figure as well.

Then the Warden Douglas L. Weber, he said NO don't move him, and he told the guards to do nuthing, like he new that something was going to happen.

There should be a \$ dollor figure on that for sure here.

I beleave that a dollor figure of about \$35,000.00 would be in line here sir.

Please here my plee.

Thank You Truly

Dated 28 Day of October 2009.

/s/ Timothy Doop #31589.

Timothy Doop, DOC.#31589

S.D.S.P.

P.O.Box 5911

Sioux Falls,S.D.57117-5911

Plaintiff, Pro se.

"42 U.S.C. § 1983 Complaint"

#IV. State of Claim: Page 3. Subpage 1.

Prior to the 18th of October, 2007, I had complained to the DOC. Staff officials, like CO. Ringer Jenny Wagner, and Sec. Troy Ponto, at time he was the Unit Manager of East Hall, at the South Dakota State Prison, then Douglas L. Weber, Warden; and the 7 Unknown Inmates, that is in Jamison Annex, I asked if I could be moved down to flag tier, that would make me feel a little bit safer at least, but the Warden said NO.

I had this fear that I was going to be jumped and assaulted.

I also heard little things that I was about to be assaulted soon.

On the 18th of October, 2007, I came out of my cell on the 3ed tier, in East Hall, North side, at the South Dakota State Prison, Sioux Falls, S.D. 57117, at 11:30a.m. ring out to go to work.

I was going walking down the tier, when I was jumped around the end of the tier, and several inmates was there.

One inmates had a sock, and in that sock was a pad lock, and he hit me with it in the face, head, neck, shoulders, and the body.

This pad lock broke the bones in my face, around my nose, cheeks. this hurt me so bad, I was so hurt.

They: I don't know how many there was, but they started punching me, in the head, face, shoulders, arms, body, and my legs to .

When I finly hit the floor, they started to kick me over and over again.

Sometime after that I finly past out from the pain.

The next thing that I new, that I remembered, is the inmates that was all around me, and the guards also.

The took me to the Health Services Department for treatment then.

#IV. State of Claim: Page 3. Subpage 2.

The nures seen how bad I was badly hurt, so the sent me to the Emergency Room Department, at the Avara McKinna Hospital, here in Sioux Falls, S.D..

The Ambulance finly showed up, it took so long, or it felt that way to me.

When I got to the Emergency Room, at the Hospital, the nurses was all over me like crazy.

They did such a good job on me, I felt well treated, they even wanted to keep me longer, when the prison officials said NO send him back to the prison.

I am supplying the medical records from the hospital, and the Health Services Department, here at the prison, and my stay at the Infurmery, down at Jamison Anix, here at the prison.

Then I was sent up to West Hall, here at the Hill,s.d.s.p.,

They could have sent me over to West Hall, along time ago, and maybe, none of this would have ever happened to me, at all if the officials, the guards, the Warden Weber, Troy Ponto, jenny Wagner, CO Rieger if they would have lissioned to me, to all the other people that new. But NO they didn't.

I have this fear, that I that I have now. This fear is like when I see a bunch of inmates to gether, I start to sweat, and I get afraide all over again. WOW!

I want to run away, its allways the same here, it never changes for me.

I have the rest of my life to go through this here sir.

I can only hope, that the court will here my plee here.

"42U.S.C. § 1983 Complaint"

#VV. State of Claim: Page 3. Subpage 3.

I feel the safest, here in my cell now.

I try to go to the Chapel, Native Americans meetings every once and awhile though.

I believe that under the Federal, 42U.S.C. § 1997e(e). (2000). I have proven the Emotional and Mental, and Cruel and Unusual Punishment sections of the 1997 clause. Or I hope so.

I believe that shows the violation of my Eighth and my Fourteenth Amendments, Tort Law Claim for Cruel and Unusual Punishment.

I believe that shows, maybe the (PLRA) is the stance of this claim as well sir.

This is the Tort Claim of the Mental claim here.

So because of the statements within, I believe the 1997 case is provable here Your Honer.

I also believe that under the Civil Rights Act of 1871 this is under the United States Constitution § 1983 the Fourteenth Amendment to be free from Assaults/there Failure to protect, which is under my Eighth Amendment also.

I do have a Mental Disability, so I believe that might have had something to do with why I was jumped as I was.

So I believe that the "Americans With Disabilities Act" under the 42 U.S.C. §§ 12101-12213 (2000). This is a case for the rights of prisoners with disabilities act of 1973, is applied here.

Also 28 U.S.C. § 1346(b).(2). (2000). The Stress, the Fear that I go through every day of my life now, and it will be that way probably for the rest of my life sir.

And the Psychological injuries, and the damage that has been done to me in my head now, and will probably be that way for the rest of my life.

"42 U.S.C.S 1983 Complaint"

My Plee To The Court:

I really beleave that there is substancial grounds for this complaint here Your Honer.

The blatant disregard for my safety, and my Constitutional Rights, that I beleave has been violated here, such as the Eighth and the Fourteenth Amendments.

Because they, the officials, new by me telling them, that I was in danger, I felt unsafe, I new I was about to be jumped soon.

And the word that was going around that I was about to be jumped, but they did nuthing to help me , to help keep me safe from being assaulted, and protect me from assaults.

And the degree of the Physical Assault that I had went through, was more then severe, it was astouding in deed.

So intence it really was sir, that some one should have to pay for this

And the Mental and the Emotional termoil that I have gone, still, goes through every day of my life.

The fear, that I live through, and still do live through every day of my life here Your Honer.

I Hope, I Pray, That the court, will here my plee, and grant me my motion, and allow my case to go forword here.

Thank You Truly

Dated 28 Day of October 2009.

/s/ Timothy Doop #31589.

Timothy Doop, DOC.#31589

S.D.S.P.

P.O. Boxx 5911

Sioux Falls, S.D. 57117-5911
Plaintiff, Pro se.

"42 U.S.C. § 1983 Complaint"

My statement about the statute of limitations in this case:

I beleave that this case should go forword because of the sevearity of this claim here sir.

That the statute of limatations should be waived in this case because of the cruelty of the physical injury that was suffered to my person, and my mental injury that I sustained in this assault that I had gone through here.

And I couldn't get no one to take this case, and help me to bring this case forword here sir, and no outside attorney, wanted to take this case on without at least \$5,000.00 dollors paied up front, before they would take the case on.

My mother, and I could not really do that Your Honer.

Then the inmates that take on Legal work here in the prison, wouldn't take this case on without nuthing less then \$250.00 dollors, on be deposited in an account outside the prison, and maybe some payments of some of the remainder then.

I just couldn't do this, or my mother, either sir.

So I had to face it, I had to learn all that I could learn, from the Library Law Section, of the library.

I had my mother to order and purchase a book ciled a "JAILHOUSE LAWYERS HAND BOOK", that I have found of great help.

I am sorry, that all this has taken so long here sir.

Please: don't let my Ignorence from keeping this case from being aloud to go forword here sir.

This I beg of you, please allow my case to come forword.

Dated 28 Day of October 2009.

/s/ Timothy Doop #31589

Timothy Doop, DOC.#31589
S.D.S.P.
P.O.Box 5911
Sioux Falls, S.D.57117-5911
Plaintiff, Pro se.

"Insert for State and Federal Civil Rights Laws & Torts"

#1. Fletcher vs. Coney Island Inc. 165 Ohio St. 150-59, Ohio Op. 212, 134, N.E. 2d. 371 (1956). This gives the person the rights to recover a forfeiture and a penalty in a Specified Amount from the violator of the State or Federal Civil Rights Statute.

#2. The Jackson vs. Concord Co., 54N.Y. 113, 253, A.2d. 793 (1969). This section also gives the right to recover damages.

#3. Trujillo vs. Northern Rio Arriba Elec. Co-op Inc. 2002-NMSL-~~100~~, 131, N.M. 607, 41 P. 3d. 333 (2001). For damages and forfeitures and Penalties:

To recover Damages and Penalties: Use this Law.
Burks vs. Poppy Const. Co. 57 Cal. 2d. 463, 20 Cal. Rptr. 609, 370, P. 2d. 313 (1962).

Your Eighth Amendment Protection under Cruel and Unusual Punishment.

Recent Supreme Court cases have emphasized "Threats to Prisoner" and Health and Safety, such as conditions that show and "Pose an unreasonable risk of Serious Damages to persons and their Future Health." This case is:

Helling vs. McKinney, 509, U.S. 25, 35, 1135. Ct. 2475, 2481, 125L. Ed. 2d. 22, 32, (1993). And this case Law:

Farmer vs. Brennan, 511 U.S. 825, 839-43, 1145. Ct. 1980-82, 1976, 128L. Ed. 2d. 811, 826-29, (1994). This is a "Deliberate Indifference", which means that the officials did have actual Knowledge, that they were subjecting you to an Excessive risk of Harm, of an Unconstitutional act or conditions like the attacks here.

Williams vs. Cook County, No. 96L. 5263, 1997 WL. 779075, at *3. (N.D. Ill. Dec. 12th, 1997). (Holding allegations that the Plaintiff sustained "Injuries to the head, Shoulder, Arms, Body, and Legs,;" "Then surgery to the face and plates put in, from the Physical Assault,' this does Meet Notice Pleading Requirements,"). Because of the "Physical Injury" that had occurred here.

"Then what is Physical Injury?" Must mean more than "de minimis", to meet the §1997e(e).. requirements.

"Insert of State and Federal Civil Rights Law and Torts".

Sigiar vs. Hightower, 112.F. 3d. 191, 193, (5th Cir. 1997).
(Note: Not significant when inmate didn't visit the Infirmary,
or the Hospital, and Suffered no damages after the attack.
"You did suffered damages here."

Then Dodd vs. Robinson, Civil Action No. 03-F-571-N, order
at *1. (M.D. Ala. Mar. 26, 2004).

"In this case the Court held that the Damage Settlements
was not subject to the requirement of direct payments of
restitution orders because the parties had reached a private
settlement agreement."

"FOR DAMAGE CLAIMS"

Davis vs. District of Columbia, 158F. 3d. 1342, 1347, (D.C. Cir. 1998).
Curtailment of Damage Remedies dose not interfere
with the Constitutional Right the Plaintiff seeks to enforce
of equal protection scrutiny.

42 U.S.C. §1997e(e). (2000). (FLCA). Tort Claim.

Prisoners confined in prison; for a prisoner to file
Mental and Emotional Injury suffered while in custody, you
have to show with the 1997 Form, "Prior Showing of Physical
Injury."

"YOUR EIGHTH AMENDMENT VIOLATION."

In Armstrong vs. Drahos, 2002, WL. 187502, at *2. (N.D.LLL.
Feb. 6th, 2002). "The courts has acknowledged that persons alleging the
the 8th Amendment Violation," needs show NO injury other than
the Violation itself." "And Assaults/Failure to Protect."

State Prisoners have the right to be free from Assaults:
This is well Grounded in the Fourteenth Amendment as well.

Robinson vs. Schriro, 45F.Supp. 2d. 709, 716-20, (W.D.Mo.1999).
"You have the freedom from Racial Discrimination, and your
Protection Rights:"

Amaker vs. Hupnik, 1999 WL. 767998, at.*7. (S.D.N.Y. Feb.
17th, 1999). Also noting that Requiring Physical Injury in
all cases would make the Term,"Mental or Emotional Injury"
("SUPERFLUOUS").

"Tort Laws is the basis of the Law of Damages under:"

42 U.S.C. § 1998 (Claims). Like:

Smith vs. Wade, 461,U.S. 30, 34, (1983). And:

Carry vs. Piphus, 435,U.S. 247, 257-58, (1978).

Thompson vs. Carter, 284, F.3d. 411, 418, (2d.Cir. 2002).

Royal vs. Kentzky, 375, F.3d. 720, 723, (8th Cir. 2004).

Calhoun vs. Detellia, 319, F.3d. 936,943,(7th Cir. 2003).

"Insert for State and Federal Civil Rights Laws & Torts"

Noting that "nominal damages" are awarded to vindicate the rights, resulting from the injuries," and that Punitive Damages are designed to punish, and deter the wrong doers for deprivations of your Constitutional Rights," Some courts have held that Punitive Damages are Subject to Mental or Emotional Injury."

"YOUR EIGHTH AMENDMENT CLAIM."

Cruel and Unusual Punishment Injuries resulting from Assaults: (Is Mental and Emotional Injury)." You have Physical Injury: So you can file a (PLRA), for Cruel & Unusual Punishment, and your injury was Serious in nature."

This is my statement to support my claim of Failure to Protect and keep me free from assaults.

Please here my plees, and grant my Motion to continue.

Thank You Truly

/s/ Timothy Doop #31589.

Timothy Doop, DOC.#31589
S.D.S.P.
P.O.Box 5911
Sioux Falls, S.D. 57117-5911
Plaintiff, Pro se.